

WETLANDS COUNCIL

MINUTES

March 8, 2011

The Wetlands Council met on Tuesday, March 8, 2011 in Rooms 112, 113, & 114 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Chip Kimball, Councilors: Larry Ballin, Ryan Crosbie, Larry Morse, Dari Sassan, Russ St. Pierre, Seth Prescott, and David Thompson

Absentees: Councilors: Sharon Champagne, Carol Henderson, and Thomas Sloan

Also present were: Amy Samson, Council Appeals Clerk and Carolyn Guerdet, Council Clerk.

The regular Wetlands Council meeting was called to order by Chairman Kimball at 9:00 a.m. with introductions and a quorum present.

1. Approval of Minutes

- ***Councilor Thompson made a motion to accept the February 8, 2011 minutes as corrected, second by Councilor St. Pierre. Motion passed unanimously.***

3. Wetlands Bureau Update

Mary Ann Tilton, Wetlands Bureau

Mary Ann highlighted what has been accomplished over the last year. 2 EPA grants were finished. One was *Building a Watershed Model for Enhancing Wetlands Protection in New Hampshire*. With this a state-wide wetlands base map was developed. The GIS maps were overlaid for wildlife, water quality, and for flood water wetlands. The other grant was with Fish & Game in the Ashuelot River Watershed looking at stream crossings.

Stream crossing rules were adopted this past year and training was provided state-wide under the EPA grant. Wetlands and Alteration of Terrain have been working on integration. A compliance resource review team was put together to build consistency in decision making.

There were 3 releases of the ARM funds – the Upper Androscoggin - \$89,000, Winnepesaukee River Watershed \$255,000, and the Connecticut River to Bellows Falls - \$394,000. Pre-proposals are now being used to hopefully help people to prepare their full submissions with more detail and thus increasing the number of qualified applications.

Sandy Crystall has been transferred to the Watershed Management Bureaus and is now helping to develop a national wetlands conditions assessment. She is also helping to develop a department-wide wetland monitoring strategy plan.

Legislation – Mary Ann then reviewed the House and Senate bills. HB 468 now has an amendment that would affect the ARM Fund program. HB 621 – related to routine roadway maintenance by municipalities, with an amendment proposed is before a subcommittee on Wednesday.

SB 142 – regarding integrated permitting. There is hearing on March 10th with an amendment. This creates integrated criteria and processing of the permits and also creates an integrated appeals board. The council will wait and see when it is out of the Senate before taking a position.

Prime Wetlands Stakeholder Group – they are waiting until SB 19 is finalized to continue work on the rules.

Work was completed on a 6 year wetland program plan. By doing this, EPA says the state can qualify for multi-year funding and increase the state's ranking. The approved plan is posted on website. It includes multiple programs - wetlands, watershed and deals with regulation, enforcement, restoration, protection, outreach, and sustainable financing.

9:30 Councilor Morse joins the meeting.

2. Status of Appeals

Amy Sampson, Appeals Clerk

I. New Appeals

Docket No. 10-17 WtC – Sunset Ranch Camp, Inc.

Subject: Decision on Shoreland Permit Application, Wetlands File No. 2010-00690

Status: Council to decide whether or not to accept the appeal.

- ***Councilor St. Pierre made a motion to accept the appeal, second by Councilor Thompson. Motion passed unanimously.***

This appeal will be combined with No. 10-24 WtC.

II. Decisions that need to be written/finalized and issued.

Docket No. 06-11 WtC - Dennis Proulx

Subject: 07/13/06 Decision on Reconsideration Denial, Wetlands File No. 2006-00769

Presiding Officer: Larry Morse

Status: Council granted the Assented-To Motion to Dismiss. A decision and order needs to be finalized.

Docket No. 09-30 WtC – Philips Exeter Academy

Subject: 6/26/09 Decision on Reconsideration for Proposed Parking Area at Main Street School in Exeter. Wetlands Bureau Dredge and Fill Permit #2008-00233

Presiding Officer: Chip Kimball

Action: See attached draft decision and order for review and approval.

- ***Councilor Thompson made a motion to adopt the decision, second by Councilor Prescott. Motion passed unanimously with Councilor Morse abstaining.***

III. Hearings or PHCs scheduled.

Docket No. 07-09 WtC - Derry Conservation Commission

Subject: 4/24/07 Decision on Reconsideration Denial, Wetlands File No. 2006-00773

Presiding Officer: Seth Prescott (assigned by AGO)

Status: Another Pre Hearing Conference(PHC) will need to be rescheduled.

Docket No. 08-04 WtC - Porter Trust

Subject: 12/12/07 Decision on Reconsideration, Wetlands File No. 2006-02705

Presiding Officer: Chip Kimball (assigned by AGO on January 5, 2011)

Status: A Motion hearing was held on January 11, 2011 at 10:00 a.m. **Deliberation was tabled until April 12, 2011.**

Docket No. 09-01 WtC - Kevin Price d/b/a Ossipee Lake Marina

Subject: 12/9/08 Administrative Order

Presiding Officer: Larry Morse (assigned by AGO on October 27, 2010)

Status: The parties are close to a settlement agreement and assented to a continuance of the hearing until the appeal is withdrawn. Request for continuance was attached.

Docket No. 09-07 WtC and 09-08 WtC - Lake Sunapee Protective Association (LSPA) and Town of Newbury

Subject: 1/7/09 Shoreland Impact Permit issued by DES to the NH Fish and Game for the Wild Goose Site in Newbury.

Presiding Officer: Larry Morse (assigned by AGO)

Recused: Larry Ballin, Carol Henderson

Status/Action: A hearing was held on October 12, 2010; October 26, 2010; November 9, 2010; and December 14, 2010. The parties have filed Findings of Fact and Conclusion of Law. Deliberations are scheduled for today.

Docket No. 9-25 WtC - Town of Hooksett

Subject: 5/11/09 Wetlands and Non-Site Specific Permit, Permit No. 2008-02016

Presiding Officer: Chip Kimball (assigned by AGO on October 27, 2010)

Recused: Larry Morse

Status: **A hearing is scheduled for March 22, 2011 at 9:00 a.m.**

Docket No. 09-35 WtC – Town of Newbury

Subject: 9/18/09 Decision on Reconsideration, Wetlands File No. 2008-02781

Presiding Officer: Larry Morse (assigned by AGO)

Recused: Larry Ballin, Carol Henderson

Status/Action: A hearing was held on October 12, 2010; October 26, 2010; November 9, 2010; and December 14, 2010. The parties have filed Findings of Fact and Conclusion of Law. Deliberations will be held today.

Docket No. 09-36 WtC – Brendan and Dana Keegan

Subject: Administrative Order No. 09-22 WD dated April 6, 2009

Status: A PHC is scheduled for March 30, 2011 at 12:00 p.m.

Docket No. 09-44 WtC – Thomas and Joan DiPace

Subject: 10/13/09 Administrative Order No. 09-082 WD

Presiding Officer: Chip Kimball (assigned by AGO on October 27, 2010)

Status/Action: A PHC was held on January 26, 2011. A hearing is scheduled for May 10, 2011 at 9:00 a.m. Please note that the regular business meeting will start at 8:00 a.m.

Docket No. 10-03 WtC – Richard and Donna Mills Appeal

Subject: 1/5/10 Decision on Reconsideration, Wetlands File No. 2009-01534

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: PHC was held February 23, 2011 at 9:00 a.m. Hearing scheduled for July 12, 2011 at 10:00 a.m.

Docket No. 10-04 WtC – Thomas J. Murray Appeal

Subject: 12/28/09 Denial of Application, Wetlands File No. 2007-00187

Presiding Officer: ~~Larry Morse~~ Chip Kimball (assigned by AGO on October 27, 2010)

Status: A 3rd PHC was held on February 23, 2011. The parties are in negotiations and agreed to have the clerk send a letter requesting status on May 23, 2011 (if the appeal is not withdrawn by then).

Docket No. 10-08 WtC – Robert Reich

Subject: 4/19/10 Decision on Reconsideration, Wetlands File No. 2009-02050

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: PHC was held on February 23, 2011 at 10:30 a.m. **A hearing is scheduled for June 14, 2011 at 10:00 a.m.**

Docket No. 10-10 WtC – Donald Lee

Subject: 5/23/10 Decision on Reconsideration, Wetlands File No. 2008-01253

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: A PHC is scheduled for March 30, 2011 at 2:00 p.m.

Docket No. 10-12 WtC – Provencal One Family Trust

Subject: 6/4/10 Administrative Order No. 10-013 WD

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: A PHC was held on February 23, 2011. **A hearing is scheduled for June 28, 2011 at 8:00 a.m.**

Docket No. 10-14 WtC – Akwa Marina Yacht Club

Subject: 6/11/10 Decision on Reconsideration, Wetlands File No. 2009-01047

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: A PHC is scheduled for March 30, 2011 at 10:30 a.m.

Docket No. 10-18 WtC – MRAC LLC and Merchants Plaza, LLC

Subject: Application of NH Dept. of Transportation, Wetlands File No. 2010-00224

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: A PHC is scheduled for March 30, 2011 at 11:00 a.m.

Docket No. 10-19 WtC – Grouse Point Club

Subject: Decision on Reconsideration Denial, Wetlands File No. 2010-00808

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: A PHC is scheduled for March 30, 2011 at 9 a.m.

Docket No. 10-20 WtC – Robert Pinato

Subject: August 19, 2010 Administrative Order, Administrative Order No. 10-025 WD

Status: A PHC is scheduled March 30, 2011 at 12:00 p.m.

Docket No. 10-24 WtC – Sunset Ranch Camp, Inc.

Subject: Standard Dredge and Fill Permit, Wetlands File No. 2010-00764

Status: A PHC is scheduled for March 30, 2011 at 9:00 a.m. Parties agreed that if Docket No. 10-17 is accepted that it will also be scheduled for the same date and time.

Docket No. 10-23 WtC – Charles and Patricia Sem

Subject: Administrative Order No. 10-033 WD dated September 21, 2010

Status: A PHC is scheduled for March 30, 2011 at 2:00 p.m.

IV. Previously pending cases.

Docket No. 08-13 WtC - Jeffrey Costura

Subject: 1/25/08 Decision on Reconsideration, Wetlands File No. 2007-01416

Status: A request for status has been sent via certified mail. Parties to respond by April 12, 2011.

Docket No. 08-53 WtC - Vintage Trust c/o Enthusiasts, Inc.

Subject: 8/7/08 Decision on Reconsideration Denial, Wetlands File No. 2006-01506

Status: A request for status has been sent via certified mail. Parties to respond by April 12, 2011.

Docket No. 08-55 WtC - Tracy Middleton Revocable Trust of 1992

Subject: 9/12/08 Reconsideration Denial, Wetlands File No. 2002-2087

Status: A request for status has been sent via certified mail. Parties to respond by April 12, 2011.

Docket No. 09-09 WtC - Christopher and Sally Norton

Subject: 01/09/09 Reconsideration Denial, Wetlands File No. 2008-01265

Status: A request for status has been sent via certified mail. Parties to respond by April 12, 2011.

Docket No. 09-20 WtC - Dana Belletete

Subject: 3/26/09 Request for Reconsideration Denial, Wetlands File No. 2009-00366

Status: A request for status has been sent via certified mail. Parties to respond by April 12, 2011.

Docket No. 09-21 WtC - John Penaskovic

Subject: 4/17/09 Administrative Order, Administrative Order No. 09-041 WD

Recused: Larry Morse

Status: Appeal has been stayed until the agreement of July 1, 2010 is complete.

Docket No. 09-22 WtC - John Penaskovic

Subject: 4/17/09 Administrative Order, Administrative Order No. 09-040 WD

Recused: Larry Morse

Status: Appeal has been stayed until the agreement of July 1, 2010 is complete.

Docket No. 10-15 WtC – Steven and Mary Pruchansky

Subject: 6/10/10 Decision on Reconsideration, Wetlands File No. 2009-023600

Status: A PHC was held on February 23, 2011. The permit has been issued and the agent will withdraw the appeal.

V. Misc.

3/31/09 Request for Declaratory Ruling filed by Mr. Goodwin

Councilor Morse to finish.

Chairman Kimball asked that all hearings officers be copied when an outgoing letter is sent in regards to a docket they are covering.

5. Old Business -

6. New Business -

Chairman Kimball noted the Wetlands Council is to do a yearly report and he will begin work on it.

On March 22, 2011, Hooksett Land Development/Town of Hooksett appeal is to be heard.

The Attorney General's office is assigning hearing officers on a case-by-case basis with funding being an issue.

After discussion the Council determined that the clerk should send a copy of all outgoing appeal correspondence to the Hearing Officer assigned to the appeal.

7. **Next Meeting** – Next meeting will be Tuesday; April 12, 2011 with Porter Trust deliberations, and if needed, continued Lake Sunapee deliberations.

8. **Adjournment**

- ***Councilor Morse made a motion to adjourn, second by Councilor Ballin. Motion passed unanimously.***

Meeting adjourned at 9:57 a.m.

